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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,470	08/23/2001	Thierry Lucidarme	522-1746	1499

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EXAMINER	
DEANE JR, WILLIAM J	

ART UNIT	PAPER NUMBER
2642	

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/868,470	LUCIDARME ET AL.	
	Examiner	Art Unit	
	William J. Deane	2642	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 August 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *33-61* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *33-61* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *1 page*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 33 – 61 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, "power/time characteristic" is not understood. Does this mean power or time? Doses it mean power and time, or does it mean power and/or time? It appears that "power/time characteristic" is ambiguous.

As best as can be determined, the following rejections appear to be appropriate.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 33 – 36, 38 – 43, 45 – 50 and 52 - 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,532,226 (Lehtinen et al.).

With respect to claims 33 - 34, 36, 40, 43, 47, 50, 54, 57 note the discussion on compressed mode Col. 2, lines 19 – 27. With respect to the rest of the limitations, e.g., timing characteristic of currently planned future transmissions and selecting the time for interrupting transmissions based on power level/time characteristics, see Col. 3, lines

59 – Col. 4, line 22 and Col. 4, lines 61 – 67. The examiner is interpreting the power characteristic as the power level as determined by a compressed mode (again, see Col. 2, lines 19 – 27 and Col. 4, lines 61 – 67. If this is not the power level meant by Applicants, then it would have been obvious to one of ordinary skill in the art to use a power level that would already be known from the compressed mode, which Lehtinen et al disclose.

With respect to claims 35, 42, 49 and 56, such a limitation appears to be the consequence of using compressed mode.

With respect to claims 38, 45, 52 and 59 note Col. 8, lines 39 – 41.

With respect to claims 41, 48 and 55 such a limitation of interleaving plurality of frames is well known in the art. Also, see Col. 6, lines 15 – 28.

With respect to claims 39, 46, 53, 60, Lehtinen et al. teach handover, but are silent as to soft handover. Therefore, it appears that the compressed or slotted mode is used outside of a soft handover or at least it would be obvious to use compressed or slotted mode outside of a soft handover.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 37, 44, 51 and 58 rejected under 35 U.S.C. 103(a) as being unpatentable over Lehtinen et al. in view of U.S. Patent No. 6,128,506 (Knutsson et al.).

Lehtinen et al. teach the claimed device except for the power level being influenced by the traffic density. First, it is noted that CDMA systems degrade with high traffic density and therefore power levels are affected. Second, note claim 1 of Knutsson et al. It would have been obvious to one of ordinary skill in the art to have in place such a method of controlling the power level threshold based on traffic density as taught by Knutsson et al. into the Lehtinen et al. system because a CDMA system degrades with traffic density.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 61 is rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,381,235 (Kamel et al.).

With respect to claim 61, note Col. 3, lines 26 – 33.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

U.S. Patent No. 6,480,483 (Yahata et al.) – note Abstract and Figs.; and

U.S. Patent No. 6,112,100 (Ossoinig et al.) – note Abstract and Figs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bill Deane whose telephone number is (571) 272-7484. In addition, facsimile transmissions should be directed to Bill Deane at facsimile number (703) 872-9314.

11Jun05

WILLIAM J. DEANE, JR.
PRIMARY EXAMINER